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Utah State Legislature

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November 13, 2007

President John L. Valentine
Speaker Greg J. Curtis
Members of the Health and Human Services Interim Committee
Members of the Judiciary Interim Committee

Subject: Child Welfare Legislative Oversight Panel 2007 Annual Report

RECOMMENDATIONS

LEGISLATION RECOMMENDED FOR THE 2008 GENERAL SESSION The Child Welfare Legislative Oversight Panel is charged to "study and recommend proposed changes to laws governing the child welfare system." The Panel recommends the following legislation:

- **Child Abuse and Neglect Registry - Management and Licensing Information Systems Amendments (G. Davis)** This legislation changes various provisions related to the content and use of the child welfare Management Information System, including limiting the use of certain data as evidence in court proceedings for child custody, protective orders, or divorce.
- **Waivers of Immunity - Exceptions, (G. Hughes)** This legislation provides exceptions to the immunity granted to persons other than government employees performing certain functions related to a child abuse or neglect investigation. The legislation also provides exceptions to government employee immunity.
- **Child Welfare Amendments (W. Harper)** This legislation amends background check and child placement provisions adopted previously in response to the federal Adam Walsh Child Protection and Safety Act of 2006.
- **Child Welfare Definitions (W. Harper)** This bill simplifies, consolidates, and makes other changes to statutory definitions related to child abuse and neglect.

BUDGET RECOMMENDATIONS FOR THE 2008 GENERAL SESSION The Oversight Panel is also charged with making budget recommendations to the Legislature, as it deems appropriate, on issues affecting the child welfare system.

- **Increase Guardian ad Litem Funding by \$761,900.** The Oversight Panel has reviewed the Office of the Guardian ad Litem's FY 09 budget request and recommends that the Executive Offices and Criminal Justice Appropriations Subcommittee recommend adoption of the entire proposal. The proposal calls for an additional \$761,900 (\$706,700 ongoing, \$55,200 one-time) to fund the following:
 - an increase in attorney salaries
 - six additional attorneys and three additional support staff
 - an increase in the hourly rate and cap paid to outside counsel for cases where the GAL has a conflict of interest
 - two additional motor pool vehicles

RECOMMENDATION FOR FURTHER STUDY The Health and Human Services Interim Committee requested that the Panel identify and study barriers that prevent more frequent placement of abused and neglected children with relatives and report on actions the state could take to make kinship care more practical and commonplace. The Panel recommended the Legislature continue to consider kinship placement issues, including access to health care, access to education, caregiver's rights, and increasing the availability of Department of Workforce Services specified relative grants.

STATUS OF FEDERAL COURT OVERSIGHT

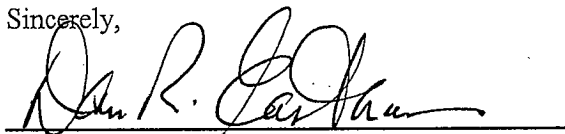
SUMMARY On June 28, 2007, U.S. District Court Judge Tena Campbell dismissed the *David C.* lawsuit, without prejudice, pursuant to an exit agreement entered into by the state and plaintiffs to the suit. Unless a motion is filed by the plaintiffs before December 31, 2008, the case will be dismissed with prejudice on that date and court oversight will be terminated permanently.

ADDITIONAL DETAIL Originally known as *David C. v. Leavitt*, the child welfare case filed by the National Center for Youth Law in 1993 resulted in a highly prescriptive four-year settlement agreement, followed by a more principle-based plan ordered by the court in 1999, followed by the June 28 exit agreement which included dismissal of the case.

Final dismissal of the case, with prejudice, will depend on the state's maintaining the progress made to date and demonstrating the capacity to make ongoing improvements in response to well-established performance measurement processes. A final report on the state's performance will be prepared by the court monitor near the end of 2008. Unless the plaintiff files a motion and the court finds the state not in compliance with the terms of the exit agreement, the case will be dismissed with prejudice December 31, 2008, meaning that court oversight cannot be reestablished except through subsequent litigation.

It is difficult to overstate the significance of Utah's exiting federal court oversight. In very few cases around the country, perhaps only three, has similar litigation come to an end.

Sincerely,



Senator Dan R. Eastman
Senate Chair
Child Welfare Legislative Oversight Panel



Representative Steven R. Mascaro
House Chair
Child Welfare Legislative Oversight Panel